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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/304,841 05/05/99 KOYAMA

M Q54287

IM22/1003  
SUGHRUE MION ZINN MACPEAK AND SEAS PLLC  
2100 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20037-3202

EXAMINER

FIGUEROA, J

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

10/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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# Office Action Summary

Application No.  
09/304,841

Applicant(s)  
Koyama et al.

Examiner  
John J. Figueroa

Group Art Unit  
1772



- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-19 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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***ELECTION/RESTRICTION***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15 drawn to a thermoplastic resin composition and a container comprising thereof, classified in class 428, subclass 35.7.
  - II. Claims ~~19-27~~<sup>16-19</sup> and ~~31~~, drawn to an oxygen-absorbing packaging material, classified in class 252, subclass 188.28.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the container combination does not require the subcombination package material's recited specific structural relationships such as, e.g., the polyolefin inner surface material. The subcombination has separate utility such as a deoxidizing carrier in organic synthesis experiments.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the distinct search required for Groups I is not required for Group II, and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Abraham J. Rosner on September 15, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I)

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**CONCLUSION**

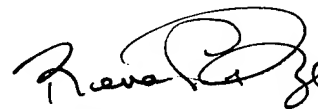
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Figueroa whose telephone number is (703) 305-0582. The Examiner can normally be reached on Monday through Thursday from 7:00 a.m. to 5:30 p.m.

If the attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Ellis P. Robinson can be reached by dialing (703) 308-2364. The fax phone number for the organization where this application is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose phone number is (703) 308-0661.

jif 

September 26, 2000

  
RENA L. DYE  
PRIMARY EXAMINER  
TC 1200